

REMARKS

In the application, claims 1-20 are pending and rejected. After due consideration of the Examiner's comments, the claims have been amended as set forth above to more clearly identify what Applicant regards as the invention. In view of these amendments, reconsideration of the application is requested.

Rejections under §112

The Examiner rejects claims 11 and 18 under 35 U.S.C. §112, 2nd para., as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner cites the limitation "fastening means" in claim 10.

In response, the claims have been amended to eliminate the limitation and further clarify the intended limitation. With regard to the Examiner's suggestion for providing proper antecedent basis for "bathing position" in claim 1, the preamble has been amended.

Rejections under §102

The Examiner rejects claims 1-6 under 35 U.S.C. §102(b) as being clearly anticipated by D'Ugo (U.S. Pat. Publ. 2002/0083518, which is the same as U.S. Pat. No. 6,567,998).

In response, the base claims have been amended to include additional limitations of the spray bar construction. Specifically, the spray bar is described as "a tubular body having a plurality of spray nozzles extending from an outer surface of the tubular body for projecting a plurality of water streams toward the bathing position, wherein the spray nozzles are disposed spaced apart in a single line extending along a length of the tubular body so that a single horizontal stream of water is emitted for each segment of the tubular body having a nozzle disposed therein."

D'Ugo does not teach a spray bar with nozzles extending therefrom, but teaches a spray bar with a plurality of patterns of holes formed through the sides of the spray bar. An advantage of Applicant's invention is that the streams emitted by the spray bar have sufficient pressure to create a stimulating effect. See, e.g., page 8, the second paragraph under the Detailed Description of the present application:

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The nozzles 6 , which may be formed from any suitable polymer, metal, e.g., brass, stainless steel, aluminum, or other appropriate material, have sufficiently small inner diameter to generate back pressure so that the resulting streams of water provide a massaging (soothing or stimulating) sensation for the user.

It would be difficult, if not impossible, for the large number of holes in the D'Ugo device to produce sufficient backpressure to provide a stimulating effect. Furthermore, the hole patterns of D'Ugo are many and widely spaced, designed to produce a triangular water spray pattern that fans out to give greater coverage of the bather in more of a mist-like manner (see, e.g., Figures 2, 3 and 5.) Such expanding spray patterns are incapable of delivering sufficient water pressure to provide a massaging affect. In contrast, Applicant's spray bar has a single line of nozzles, where the nozzles themselves are selected to create backpressure to produce a massaging stream of water, and the relatively small number of nozzles improves the ability to generate sufficient backpressure.

In view of the amendments to the base claims 1, 10 and 18, it is respectfully submitted that D'Ugo does not disclose each and every element of the invention as claimed and, therefore, that D'Ugo cannot anticipate Applicant's invention. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection under §102.

Rejections under §103:

The Examiner rejects claims 7-20 under 35 U.S.C. §103(a) as being unpatentable over D'Ugo, even though D'Ugo does not teach a swivel joint or means other than suction cups to attach the spray bar to the wall.

It is respectfully submitted that D'Ugo fails to teach or suggest the use of a single line of spray nozzles arranged along the length of the spray bar to generate massaging streams of water. In fact, D'Ugo teaches against the single line of spray nozzles as claimed, citing the advantages of “[t]he virtually complete coverage of the spray pattern for those with limited mobility such that they cannot position themselves to obtain direct water pressure on specific parts of their body.” (Pat. No. 6,547,988: col. 3, line 53). The triangular spray pattern of D'Ugo would not provide the desired massaging effect of Applicant's invention.

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In paragraph 3 of the Office Action, the Examiner cites the Gellmann patent (Pat. No. 3,375,532) in support of an obviousness rejection, however, nothing in Gellmann supports the incorporation of a single line of spaced apart nozzles to generate sufficient backpressure to provide a massaging effect. Gellmann discloses a flexible shower line with two separate shower heads.

In view of the foregoing, it is respectfully submitted that D'Ugo does not teach or suggest Applicant's invention as now claimed. Accordingly, the Examiner is requested to withdraw all rejections under §103.

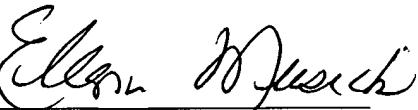
Specification and Drawings

The Examiner objects to the drawings on the grounds that reference numeral "68" is used twice in Fig. 6. Being filed herewith is a replacement drawing page in which the reference numeral referring to the seal is changed to "69". A corresponding amendment has been made in the specification at page 8.

It is believed that all grounds for objection and rejection have been addressed and overcome. Therefore, Applicant respectfully requests that all rejections and objections be withdrawn and that the claims as amended be allowed.

Should the Examiner believe that examination of the application could be expedited by a telephone interview with the undersigned attorney for Applicant, he is invited to do so using the contact information provided below.

Respectfully submitted,

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Dated: May 30, 2006

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Docket No. PA03 (112015-000009)